



## *FY 2008 Accomplishments by The Office of Federal Contract Compliance Programs*

### **Higher and Higher: Record Financial Remedies for a Record Number of American Workers in FY 08** *Enforcement Garners \$67,510,982 for 24,508 Workers Subjected to Discrimination; Up 133% Since 2001*

The Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) enforces Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended. These laws prohibit federal contractors and subcontractors from discriminating in employment based on race, gender, color, religion, national origin, disability or covered veteran status.

In Fiscal Year 2008, OFCCP enforcement efforts resulted in a **record \$67,510,982** in back pay and annualized salary and benefits for a **record 24,508 American workers** who had been subjected to unlawful employment discrimination. Of that record enforcement result, 99% was collected in cases of systemic discrimination—those involving a significant number of workers or applicants subjected to discrimination because of an unlawful employment practice or policy. The nearly \$67.5 million reflects a 133% increase over financial remedies obtained in FY 2001. This marks the fourth consecutive year that OFCCP has posted record enforcement numbers.

<b>Fiscal Year</b>	<b>Financial Remedies Obtained</b>	<b>Workers Re-compensed by OFCCP Agreement</b>	<b>Compliance Evaluations</b>
2008	\$67,510,982	24,508	4,333
2007	\$51,680,950	22,251	4,923
2006	\$51,525,235	15,273	3,975
2005	\$45,156,462	14,761	2,730
2004	\$34,479,294	9,615	6,529
2003	\$26,220,356	14,361	4,698
2002	\$23,975,000	8,969	4,135
2001	\$28,975,000	9,093	4,716
Change from 2001 to 2008	133%	170%	-8%

## **Initiatives at OFCCP Yield Dividends**

OFCCP's initiatives of the last several years have made it a more effective and efficient civil rights enforcement agency. Compared with years past, OFCCP more quickly and accurately screens contractor establishments for indicators of potential discrimination with its Active Case Management (ACM) system. Under ACM, which was fully implemented in each of OFCCP's regions in FY 2005, the agency opens more reviews than it did in the past and the agency uses automated statistical tools to rank and prioritize establishments for further review based on the probability that discrimination would be uncovered during a full-scale review. OFCCP is using ACM to identify and resolve cases of systemic discrimination with greater frequency. OFCCP is monitoring a larger portion of the federal contractor universe than it has in the past, and it is prioritizing its resources to address the worst offenders of the law. ACM is an effective mechanism for targeting systemic discrimination: In FY 2005-2008, OFCCP closed an average of 12.2% of evaluations with a conciliation agreement, compared with 6.7% of evaluations closed with a conciliation agreement in FY 2004. (The FY 2008 results reflect an increase over the 11.4% for the period 2005-2007.)

Since its inception, OFCCP has relied on contractor voluntary self-identification to determine companies over which OFCCP has jurisdiction. In FY 2005, OFCCP implemented the Contracts First project to produce a contractor selection list that is based on evidence of actual contracts. This initiative inserts information about contract awards into the database used for selection and scheduling of reviews at facilities. Additionally, the selection system is enhanced by access to an OFCCP database of facilities where no compliance reviews have been conducted in recent years.

## **Clearer Guidance and More Enforceable Standards**

Since 2001, OFCCP has enacted policy initiatives and directives to provide clearer guidance for employers and more enforceable standards for OFCCP.

### Jobs for Veterans Act Rule

In August 2007, OFCCP published a rule to implement changes to the nondiscrimination and affirmative action obligations of federal contractors with respect to covered veterans that were required by the 2002 Jobs for Veterans Act (JVA) amendments to the Vietnam Era Veteran's Readjustment Assistance Act of 1974 (VEVRAA). Among other things, the JVA expanded the categories of veterans protected by the affirmative action provisions of the law, raised the dollar amount of the Government contracts that are subject to the requirements of VEVRAA, and changed the manner in which federal contractors must list employment openings.

### Compensation Standards

OFCCP also published in the *Federal Register* interpretive standards for evaluating compensation practices, providing contractors with the first definitive guidance on the subject ever. The standards provide the agency a stronger basis for pursuing investigations of possible systemic compensation discrimination because of their

transparency and because of their consistency with court rulings on pay discrimination law. OFCCP also conducted 41 Corporate Management Compliance Evaluations (CMCEs), also known as “Glass Ceiling” audits, in FY 2008.

### **Compliance Assistance Efforts**

OFCCP continued to build upon its comprehensive compliance assistance program, conducting about one thousand compliance assistance events in each of the last five years. OFCCP’s recently enhanced monitoring of the federal contractor universe encourages self-management; compliance assistance helps employers prevent unlawful discrimination in their workplaces by providing them with the information necessary to effectively monitor their workplaces.

### **Enhanced Conciliation Capacity**

Over the past several years, a significant portion of recent recoveries came from cases referred to the Office of the Solicitor (SOL) for enforcement litigation. OFCCP involves SOL attorneys earlier in its review process and more often in conciliation meetings with contractors. Our record recovery amounts over the past four years are, in part, a reflection of this change.